
SENATE BILL 6025

State of Washington

60th Legislature

2007 Regular Session

By Senator Jacobsen

Read first time 02/14/2007. Referred to Committee on Natural Resources, Ocean & Recreation.

1 AN ACT Relating to forest health; amending RCW 76.06.140,
2 76.06.020, 76.06.030, 76.06.040, 76.09.060, 76.04.005, and 76.04.660;
3 adding new sections to chapter 76.06 RCW; and repealing RCW 76.06.050,
4 76.06.060, 76.06.070, 76.06.080, 76.06.090, and 76.06.110.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 76.06.140 and 2004 c 218 s 1 are each amended to read
7 as follows:

8 ~~((1))~~ The legislature finds ~~((that))~~ as follows:

9 (1) Washington faces ((serious)) forest health problems, primarily
10 in eastern Washington, where forests are overcrowded or trees ((are
11 infested with or susceptible)) lack sufficient resilience to insects,
12 diseases, wind, ice storms, and fire. The causes of and contributions
13 to these ((susceptible)) conditions include fire suppression, past
14 timber harvesting and silvicultural practices, altered species
15 composition and stand structure, and the amplified risks that occur
16 when the urban interface penetrates forest land.

17 (2) ((The legislature further finds that)) There is a private and
18 public interest in addressing uncharacteristic outbreaks of native,
19 naturalized, and nonnative insects and diseases, and reducing the risk

1 of significant loss due to ice storms, wind storms, and
2 uncharacteristic fire. The public interest is in protecting forest
3 productivity on forests managed for commodity production; restoring and
4 maintaining forest ecosystem vitality and natural forest processes and
5 functions; reducing the cost of fire suppression and the resulting
6 public expenditures; protecting, restoring, and enhancing fish and
7 wildlife habitat, including the habitat of threatened or endangered
8 species; and protecting drinking water supplies and water quality.

9 (3) Well managed forests are the first line of defense in reducing
10 the likelihood of uncharacteristic fire, insect, and disease events,
11 and supporting conservation and restoration of desired plants and
12 animals. Active management of forests, consistent with landowner
13 objectives and the protection of public resources, is the most
14 economical and effective way to promote forest health and protect
15 communities. Fire, native insects, and diseases perform important
16 ecological functions when their occurrence does not present a material
17 threat to long-term forest productivity and increase the likelihood of
18 uncharacteristic fire.

19 (4) Forest health problems may exist on forest land regardless of
20 ownership, and the state should ((~~explore all possible avenues for~~
21 working in)) pursue collaboration with the federal government to
22 address common health deficiencies.

23 ~~((3) The legislature further finds that healthy forests benefit~~
24 ~~not only the economic interests that rely on forest products but also~~
25 ~~provide environmental benefits, such as improved water quality and~~
26 ~~habitat for fish and wildlife.))~~

27 **Sec. 2.** RCW 76.06.020 and 2003 c 314 s 2 are each amended to read
28 as follows:

29 The definitions in this section apply throughout this chapter
30 unless the context clearly requires otherwise.

31 (1) "Agent" means the recognized legal representative,
32 representatives, agent, or agents for any owner.

33 (2) "Commissioner" means the commissioner of public lands.

34 (3) "Department" means the department of natural resources.

35 ~~((3) "Owner" means and includes persons or their agents.~~

36 ~~(4) "Timber land" means any land on which there is a sufficient~~
37 ~~number of trees, standing or down, to constitute, in the judgment of~~

1 ~~the department, a forest insect or forest disease breeding ground of a~~
2 ~~nature to constitute a menace, injurious and dangerous to permanent~~
3 ~~forest growth in the district under consideration.~~

4 ~~(5) "Commissioner" means the commissioner of public lands.~~

5 ~~(6)) (4) "Disturbance agent" means those forces that damage or~~
6 ~~kill significant numbers of forest trees, such as insects, diseases,~~
7 ~~wind storms, ice storms, and fires.~~

8 ~~(5) "Exotic" means not native to forest lands in Washington state.~~

9 ~~((7) "Forest land" means any land on which there are sufficient~~
10 ~~numbers and distribution of trees and associated species to, in the~~
11 ~~judgment of the department, contribute to the spread of forest insect~~
12 ~~or forest disease outbreaks that could be injurious to forest health.~~

13 ~~(8)) (6) "Forest health" means the condition of ((a)) the forest~~
14 ~~landscape being sound in ecological function, sustainable, resilient,~~
15 ~~and resistant to insects, diseases, fire, and other disturbance, and~~
16 ~~having the capacity to meet landowner objectives. A healthy forest~~
17 ~~landscape generally contains large living and dead trees, structural~~
18 ~~complexity, a diversity of plants and animals, and the capacity to~~
19 ~~support ecological functions performed by insects, disease-causing~~
20 ~~organisms, and fire at appropriate levels.~~

21 ~~((9)) (7) "Forest health emergency" means the introduction of, or~~
22 ~~an outbreak of, an exotic forest insect or disease that poses an~~
23 ~~imminent danger of damage to the environment by threatening the~~
24 ~~survivability of native tree species.~~

25 ~~((10)) (8) "Forest insect or disease" means a living stage of an~~
26 ~~insect, other invertebrate animal, or disease-causing organism or agent~~
27 ~~that can directly or indirectly injure or cause disease or damage in~~
28 ~~trees, or parts of trees, or in processed or manufactured wood, or~~
29 ~~other products of trees.~~

30 ~~((11)) (9) "Forest land" means any land on which there are~~
31 ~~sufficient numbers and distribution of trees and associated species to,~~
32 ~~in the judgment of the department, contribute to the spread of forest~~
33 ~~insect or forest disease outbreaks that could be detrimental to forest~~
34 ~~health.~~

35 ~~(10) "Integrated pest management" means a strategy that uses~~
36 ~~various combinations of pest control methods, including biological,~~
37 ~~cultural, and chemical methods, in a compatible manner to achieve~~

1 satisfactory control and ensure favorable economic and environmental
2 consequences.

3 ~~((+12))~~ (11) "Native" means having populated Washington's forested
4 lands prior to European settlement.

5 ~~((+13))~~ (12) "Outbreak" means a rapidly expanding population of
6 insects or diseases with potential to spread.

7 (13) "Owner" means and includes persons or their agents.

8 (14) "Person" means any individual, partnership, private, public,
9 or municipal corporation, county, federal, state, or local governmental
10 agency, tribes, or association of individuals of whatever nature.

11 (15) "Timber land" means any land on which there is a sufficient
12 number of trees, standing or down, to constitute, in the judgment of
13 the department, a forest insect or forest disease breeding ground of a
14 nature to constitute a menace, injurious and dangerous to permanent
15 forest growth in the district under consideration.

16 (16) "Uncharacteristic" means ecologically inappropriate for a
17 forest or vegetation type or plant association and refers to fire,
18 insect, or disease events that are not within a natural historic range.

19 **Sec. 3.** RCW 76.06.030 and 1988 c 128 s 16 are each amended to read
20 as follows:

21 (1) This chapter shall be administered by the department.

22 (2) The department has the lead role in developing a comprehensive
23 forest health program to achieve the goals of this act. Within
24 available funding, the department shall:

25 (a) Develop, gather, and disseminate information on forest health
26 conditions, monitor forest health conditions and changes over time, and
27 coordinate and enter agreements with interested and affected parties;

28 (b) Coordinate with universities, university extension services,
29 federal and state agencies, private, public, and tribal forest
30 landowners, consulting foresters, and forest managers to monitor forest
31 fuel buildup, forest insect and disease outbreaks, and wind and ice
32 storm events; and

33 (c) Coordinate with universities, university extension services,
34 and state and federal agencies to provide education and technical
35 assistance to private, public, and tribal forest landowners on
36 silvicultural and forest management science, techniques, and technology

1 to maintain forests in conditions that are resilient and resistant to
2 disturbance agents.

3 (3) The department may implement a scientific committee to advise
4 on subjects and procedures for monitoring forest health conditions and
5 program activities.

6 (4) The department may coordinate, support, and assist in
7 establishing cooperative forest health projects to address outbreaks of
8 insects or diseases. Priority for assistance authorized under this
9 section shall be given to areas under forest health hazard warnings and
10 areas where forest health decline has resulted in increased risk to
11 public safety from fire.

12 (5) The state and its officers and employees are not liable for
13 damages to a person or their property to the extent that liability is
14 asserted to arise from providing or failing to provide assistance under
15 this act.

16 **Sec. 4.** RCW 76.06.040 and 1951 c 233 s 4 are each amended to read
17 as follows:

18 ~~((Every owner of timber lands, or his agent, shall make every~~
19 ~~reasonable effort to control, destroy and eradicate such forest insect~~
20 ~~pests and forest tree diseases which threaten the existence of any~~
21 ~~stand of timber or provide for the same to be done on timber lands~~
22 ~~owned by him or under his control. In the event he fails, neglects, or~~
23 ~~is unable to accomplish such control, the action may be performed as~~
24 ~~provided for in this chapter.)) Landowners and managers are encouraged
25 to maintain their forest lands in a healthy condition in order to meet
26 their individual ownership objectives, protect public resources as
27 defined in chapter 76.09 RCW, and avoid contributing to forest insect
28 or disease outbreaks or increasing the risk of uncharacteristic fire.~~

29 NEW SECTION. **Sec. 5.** A new section is added to chapter 76.06 RCW
30 to read as follows:

31 Forest health issues shall be addressed by a tiered system.

32 (1) The first tier is intended to maintain forest health and
33 protect forests from disturbance agents through the voluntary efforts
34 of landowners. Tier 1 is the desired status. Consistent with
35 landowner objectives and the protection of public resources, forests
36 should be managed in ways that create, restore, or maintain healthy

1 forest ecosystems so that disturbance agents occur or exist at
2 nonepidemic levels. To the extent of available funding, information
3 and technical assistance will be made available to forest landowners so
4 they can plan for and implement necessary forest health maintenance and
5 restoration activities.

6 (2) The second tier is intended to manage the development of
7 threats to forest health, or address existing threats to forest health,
8 due to disturbance agents. Actions by landowners to address such
9 threats to forest health are voluntary except as required under chapter
10 76.04 RCW to reduce the danger of the spread of fire. Actions
11 suggested to reduce threats to forest health are specified in forest
12 health hazard warnings issued by the commissioner of public lands under
13 section 7 of this act. Within available funding, site-specific
14 information, technical assistance, and project coordination services
15 shall be offered as determined appropriate by the department.

16 NEW SECTION. **Sec. 6.** A new section is added to chapter 76.06 RCW
17 to read as follows:

18 (1) The commissioner of public lands may appoint a forest health
19 scientific advisory committee when the commissioner determines that
20 forest lands in any area of the state appear to be threatened by a
21 forest health condition of such a nature, extent, or timing that action
22 to reduce the threat may be necessary.

23 (a) The committee shall consist of one scientist chosen for
24 expertise in forest ecology, one scientist chosen for expertise in
25 aquatic ecology, one scientist chosen for expertise in wildlife
26 biology, two scientists chosen for expertise relative to the attendant
27 risk, one specialist in wildfire protection, one specialist in fuels
28 management, one forester with extensive silvicultural experience in the
29 affected forest type, and a chairperson who shall represent the
30 commissioner. The departments of fish and wildlife, ecology, and
31 natural resources shall provide technical assistance to the committee
32 in the areas of fish and wildlife, water quality, and forest practices,
33 but shall not be members of the committee. The director of forest
34 health protection of region 6 of the United States department of
35 agriculture forest service or their named designee shall be invited to
36 be an ex officio member of the committee. In the event the area

1 affected contains substantial acreage of tribal or federally owned
2 lands, representatives of the affected agencies and tribes shall be
3 invited to participate in the proceedings of the committee.

4 (b) The commissioner may disband the committee when he or she deems
5 appropriate.

6 (2) The committee shall evaluate the threat to forest health and
7 make a timely report to the commissioner on its nature, extent, and
8 location.

9 (a) In its deliberations, the committee shall consider the need for
10 action to reduce the threat and alternative methods of achieving the
11 desired results, including the environmental risks associated with the
12 alternatives.

13 (b) The committee shall also recommend potential approaches to
14 achieve the desired results for forest land ownerships of fewer than
15 ten acres and for forests owned for scientific, study, recreational, or
16 other uses not compatible with active management.

17 (c) The committee shall recommend to the commissioner whether a
18 forest health hazard warning is warranted based on the factors
19 described in section 7(2) of this act or when otherwise determined by
20 the committee to be warranted.

21 (d) When the commissioner issues a forest health hazard warning,
22 the committee shall monitor the progress and results of activities to
23 address the hazard, and periodically report its findings to the
24 commissioner.

25 (3) The exercise by forest health scientific advisory committee
26 members of their authority under this section shall not imply or create
27 any liability on their part. Advisory committee members shall be
28 compensated as provided in RCW 43.03.250 and shall receive
29 reimbursement for travel expenses as provided by RCW 43.03.050 and
30 43.03.060. Costs associated with the committee may be paid from the
31 general fund appropriation made available to the department of natural
32 resources for fire suppression.

33 NEW SECTION. **Sec. 7.** A new section is added to chapter 76.06 RCW
34 to read as follows:

35 (1) Prior to issuing a forest health hazard warning, the
36 commissioner shall consider the findings and recommendations of the
37 forest health scientific advisory committee and shall consult with

1 county government officials, forest landowners and forest land
2 managers, consulting foresters, and other interested parties to gather
3 information on the threat, opportunities, or constraints on treatment
4 options, and other information they may provide. The commissioner, or
5 a designee, shall conduct a public hearing in a county within the
6 geographical area being considered.

7 (2) The commissioner of public lands may issue a forest health
8 hazard warning when the commissioner deems such action necessary to
9 manage the development of a threat to forest health or address an
10 existing threat to forest health. A decision to issue a forest health
11 hazard warning may be based on existing forest stand conditions and:

12 (a) The presence of an uncharacteristic insect or disease outbreak
13 that has (i) spread to multiple forest ownerships and caused extensive
14 damage to forests; or (ii) significantly increased forest fuel that is
15 likely to further the spread of uncharacteristic fire;

16 (b) When, due to extensive physical damage from wind or ice storm
17 or other cause, there are (i) insect populations building up to large-
18 scale levels; or (ii) significantly increased forest fuels that are
19 likely to further the spread of uncharacteristic fire; or

20 (c) When otherwise determined by the commissioner to be
21 appropriate.

22 (3) A forest health hazard warning shall be issued by use of a
23 commissioner's order. General notice of the commissioner's order shall
24 be published in a newspaper of general circulation in each county
25 within the area covered by the order and on the department's web site.
26 The order shall specify the boundaries of the area affected, including
27 federal and tribal lands, the forest stand conditions that would make
28 a parcel subject to the provisions of the order, and the actions
29 landowners or land managers should take to reduce the hazard.

30 (4) Written notice of a forest health hazard warning shall be
31 provided to forest landowners of specifically affected property.

32 (a) The notice shall set forth:

33 (i) The reasons for the action;

34 (ii) The boundaries of the area affected, including federal and
35 tribal lands;

36 (iii) Suggested actions that should be taken by the forest
37 landowner;

38 (iv) The time within which such actions should be taken;

1 (v) How to obtain information or technical assistance on forest
2 health conditions and treatment options;

3 (vi) These requirements are advisory only for federal or tribal
4 land.

5 (b) The notice shall be served by personal service or by mail to
6 the latest recorded real property owner, as shown by the records of the
7 county recording officer as defined in RCW 65.08.060. Service by mail
8 is effective on the date of mailing. Proof of service shall be by
9 affidavit or declaration under penalty of perjury.

10 (5) Upon written request, the department may certify as adequate a
11 forest health management plan developed by a forest landowner, before
12 or in response to a forest health hazard warning, if the plan is likely
13 to achieve the desired result and the terms of the plan are being
14 diligently followed by the forest landowner. The certification of
15 adequacy shall be determined by the department in its sole discretion,
16 and be provided to the requestor in writing.

17 NEW SECTION. **Sec. 8.** A new section is added to chapter 76.06 RCW
18 to read as follows:

19 Nothing in this act shall exempt actions specified under the
20 authority of this act from the application of the provisions of chapter
21 76.09 RCW and rules adopted thereunder which govern forest practices.

22 NEW SECTION. **Sec. 9.** A new section is added to chapter 76.06 RCW
23 to read as follows:

24 If any part of this chapter or requirements imposed upon landowners
25 pursuant to this chapter are found to conflict with requirements of
26 other statutes or rules, the conflicting part of this chapter or
27 requirements imposed pursuant to this chapter shall be inoperative
28 solely to the extent of the conflict. The finding or determination
29 shall not affect the operation of the remainder of this chapter or such
30 requirements.

31 **Sec. 10.** RCW 76.09.060 and 2005 c 274 s 357 are each amended to
32 read as follows:

33 (~~The following shall apply to those forest practices administered
34 and enforced by the department and for which the board shall promulgate
35 regulations as provided in this chapter:~~)

1 (1) The department shall prescribe the form and contents of the
2 notification and application. The forest practices rules shall specify
3 by whom and under what conditions the notification and application
4 shall be signed or otherwise certified as acceptable. Activities
5 conducted by the department or a contractor under the direction of the
6 department under the provisions of RCW 76.04.660, shall be exempt from
7 the landowner signature requirement on any forest practice application
8 required to be filed. The application or notification shall be
9 delivered in person to the department, sent by first class mail to the
10 department or electronically filed in a form defined by the department.
11 The form for electronic filing shall be readily convertible to a paper
12 copy, which shall be available to the public pursuant to chapter 42.56
13 RCW. The information required may include, but is not limited to:

14 (a) Name and address of the forest landowner, timber owner, and
15 operator;

16 (b) Description of the proposed forest practice or practices to be
17 conducted;

18 (c) Legal description and tax parcel identification numbers of the
19 land on which the forest practices are to be conducted;

20 (d) Planimetric and topographic maps showing location and size of
21 all lakes and streams and other public waters in and immediately
22 adjacent to the operating area and showing all existing and proposed
23 roads and major tractor roads;

24 (e) Description of the silvicultural, harvesting, or other forest
25 practice methods to be used, including the type of equipment to be used
26 and materials to be applied;

27 (f) Proposed plan for reforestation and for any revegetation
28 necessary to reduce erosion potential from roadsides and yarding roads,
29 as required by the forest practices rules;

30 (g) Soil, geological, and hydrological data with respect to forest
31 practices;

32 (h) The expected dates of commencement and completion of all forest
33 practices specified in the application;

34 (i) Provisions for continuing maintenance of roads and other
35 construction or other measures necessary to afford protection to public
36 resources;

37 (j) An affirmation that the statements contained in the
38 notification or application are true; and

1 (k) All necessary application or notification fees.

2 (2) Long range plans may be submitted to the department for review
3 and consultation.

4 (3) The application for a forest practice or the notification of a
5 Class II forest practice is subject to the three-year reforestation
6 requirement.

7 (a) If the application states that any such land will be or is
8 intended to be so converted:

9 (i) The reforestation requirements of this chapter and of the
10 forest practices rules shall not apply if the land is in fact so
11 converted unless applicable alternatives or limitations are provided in
12 forest practices rules issued under RCW 76.09.070 as now or hereafter
13 amended;

14 (ii) Completion of such forest practice operations shall be deemed
15 conversion of the lands to another use for purposes of chapters 84.33
16 and 84.34 RCW unless the conversion is to a use permitted under a
17 current use tax agreement permitted under chapter 84.34 RCW;

18 (iii) The forest practices described in the application are subject
19 to applicable county, city, town, and regional governmental authority
20 permitted under RCW 76.09.240 as now or hereafter amended as well as
21 the forest practices rules.

22 (b) Except as provided elsewhere in this section, if the
23 application or notification does not state that any land covered by the
24 application or notification will be or is intended to be so converted:

25 (i) For six years after the date of the application the county,
26 city, town, and regional governmental entities shall deny any or all
27 applications for permits or approvals, including building permits and
28 subdivision approvals, relating to nonforestry uses of land subject to
29 the application;

30 (A) The department shall submit to the local governmental entity a
31 copy of the statement of a forest landowner's intention not to convert
32 which shall represent a recognition by the landowner that the six-year
33 moratorium shall be imposed and shall preclude the landowner's ability
34 to obtain development permits while the moratorium is in place. This
35 statement shall be filed by the local governmental entity with the
36 county recording officer, who shall record the documents as provided in
37 chapter 65.04 RCW, except that lands designated as forest lands of
38 long-term commercial significance under chapter 36.70A RCW shall not be

1 recorded due to the low likelihood of conversion. Not recording the
2 statement of a forest landowner's conversion intention shall not be
3 construed to mean the moratorium is not in effect.

4 (B) The department shall collect the recording fee and reimburse
5 the local governmental entity for the cost of recording the
6 application.

7 (C) When harvesting takes place without an application, the local
8 governmental entity shall impose the six-year moratorium provided in
9 (b)(i) of this subsection from the date the unpermitted harvesting was
10 discovered by the department or the local governmental entity.

11 (D) The local governmental entity shall develop a process for
12 lifting the six-year moratorium, which shall include public
13 notification, and procedures for appeals and public hearings.

14 (E) The local governmental entity may develop an administrative
15 process for lifting or waiving the six-year moratorium for the purposes
16 of constructing a single-family residence or outbuildings, or both, on
17 a legal lot and building site. Lifting or waiving of the six-year
18 moratorium is subject to compliance with all local ordinances.

19 (F) The six-year moratorium shall not be imposed on a forest
20 practices application that contains a conversion option harvest plan
21 approved by the local governmental entity unless the forest practice
22 was not in compliance with the approved forest practice permit. Where
23 not in compliance with the conversion option harvest plan, the six-year
24 moratorium shall be imposed from the date the application was approved
25 by the department or the local governmental entity;

26 (ii) Failure to comply with the reforestation requirements
27 contained in any final order or decision shall constitute a removal of
28 designation under the provisions of RCW 84.33.140, and a change of use
29 under the provisions of RCW 84.34.080, and, if applicable, shall
30 subject such lands to the payments and/or penalties resulting from such
31 removals or changes; and

32 (iii) Conversion to a use other than commercial forest product
33 operations within six years after approval of the forest practices
34 without the consent of the county, city, or town shall constitute a
35 violation of each of the county, municipal city, town, and regional
36 authorities to which the forest practice operations would have been
37 subject if the application had so stated.

1 (c) The application or notification shall be signed by the forest
2 landowner and accompanied by a statement signed by the forest landowner
3 indicating his or her intent with respect to conversion and
4 acknowledging that he or she is familiar with the effects of this
5 subsection.

6 (4) Whenever an approved application authorizes a forest practice
7 which, because of soil condition, proximity to a water course or other
8 unusual factor, has a potential for causing material damage to a public
9 resource, as determined by the department, the applicant shall, when
10 requested on the approved application, notify the department two days
11 before the commencement of actual operations.

12 (5) Before the operator commences any forest practice in a manner
13 or to an extent significantly different from that described in a
14 previously approved application or notification, there shall be
15 submitted to the department a new application or notification form in
16 the manner set forth in this section.

17 (6) Except as provided in RCW 76.09.350(4), the notification to or
18 the approval given by the department to an application to conduct a
19 forest practice shall be effective for a term of two years from the
20 date of approval or notification and shall not be renewed unless a new
21 application is filed and approved or a new notification has been filed.
22 At the option of the applicant, an application or notification may be
23 submitted to cover a single forest practice or a number of forest
24 practices within reasonable geographic or political boundaries as
25 specified by the department. An application or notification that
26 covers more than one forest practice may have an effective term of more
27 than two years. The board shall adopt rules that establish standards
28 and procedures for approving an application or notification that has an
29 effective term of more than two years. Such rules shall include
30 extended time periods for application or notification approval or
31 disapproval. On an approved application with a term of more than two
32 years, the applicant shall inform the department before commencing
33 operations.

34 (7) Notwithstanding any other provision of this section, no prior
35 application or notification shall be required for any emergency forest
36 practice necessitated by fire, flood, windstorm, earthquake, or other
37 emergency as defined by the board, but the operator shall submit an

1 application or notification, whichever is applicable, to the department
2 within forty-eight hours after commencement of such practice or as
3 required by local regulations.

4 (8) Forest practices applications or notifications are not required
5 for forest practices conducted to control exotic forest insect or
6 disease outbreaks, when conducted by or under the direction of the
7 department of agriculture in carrying out an order of the governor or
8 director of the department of agriculture to implement pest control
9 measures as authorized under chapter 17.24 RCW, and are not required
10 when conducted by or under the direction of the department in carrying
11 out emergency measures under a forest health emergency declaration by
12 the commissioner of public lands as provided in RCW 76.06.130.

13 (a) For the purposes of this subsection, exotic forest insect or
14 disease has the same meaning as defined in RCW 76.06.020.

15 (b) In order to minimize adverse impacts to public resources,
16 control measures must be based on integrated pest management, as
17 defined in RCW 17.15.010, and must follow forest practices rules
18 relating to road construction and maintenance, timber harvest, and
19 forest chemicals, to the extent possible without compromising control
20 objectives.

21 (c) Agencies conducting or directing control efforts must provide
22 advance notice to the appropriate regulatory staff of the department of
23 the operations that would be subject to exemption from forest practices
24 application or notification requirements.

25 (d) When the appropriate regulatory staff of the department are
26 notified under (c) of this subsection, they must consult with the
27 landowner, interested agencies, and affected tribes, and assist the
28 notifying agencies in the development of integrated pest management
29 plans that comply with forest practices rules as required under (b) of
30 this subsection.

31 (e) Nothing under this subsection relieves agencies conducting or
32 directing control efforts from requirements of the federal clean water
33 act as administered by the department of ecology under RCW 90.48.260.

34 (f) Forest lands where trees have been cut as part of an exotic
35 forest insect or disease control effort under this subsection are
36 subject to reforestation requirements under RCW 76.09.070.

37 (g) The exemption from obtaining approved forest practices
38 applications or notifications does not apply to forest practices

1 conducted after the governor, the director of the department of
2 agriculture, or the commissioner of public lands have declared that an
3 emergency no longer exists because control objectives have been met,
4 that there is no longer an imminent threat, or that there is no longer
5 a good likelihood of control.

6 **Sec. 11.** RCW 76.04.005 and 1992 c 52 s 24 are each amended to read
7 as follows:

8 As used in this chapter, the following terms have the meanings
9 indicated unless the context clearly requires otherwise.

10 (1) "Additional fire hazard" means a condition existing on any land
11 in the state:

12 (a) Covered wholly or in part by forest debris which is likely to
13 further the spread of fire and thereby endanger life or property; or

14 (b) When, due to the effects of disturbance agents, broken, down,
15 dead, or dying trees exist on forest land in sufficient quantity to be
16 likely to further the spread of fire within areas covered by a forest
17 health hazard warning issued by the commissioner of public lands under
18 section 7 of this act. The term "additional fire hazard" does not
19 include green trees or snags left standing in upland or riparian areas
20 under the provisions of RCW 76.04.465 or chapter 76.09 RCW.

21 (2) "Closed season" means the period between April 15 and October
22 15, unless the department designates different dates because of
23 prevailing fire weather conditions.

24 (3) "Department" means the department of natural resources, or its
25 authorized representatives, as defined in chapter 43.30 RCW.

26 (4) "Department protected lands" means all lands subject to the
27 forest protection assessment under RCW 76.04.610 or covered under
28 contract or agreement pursuant to RCW 76.04.135 by the department.

29 (5) "Disturbance agent" means those forces that damage or kill
30 significant numbers of forest trees, such as insects, diseases, wind
31 storms, ice storms, and fires.

32 (6) "Emergency fire costs" means those costs incurred or approved
33 by the department for emergency forest fire suppression, including the
34 employment of personnel, rental of equipment, and purchase of supplies
35 over and above costs regularly budgeted and provided for nonemergency
36 fire expenses for the biennium in which the costs occur.

1 ~~((6))~~ (7) "Forest debris" includes forest slash, chips, and any
2 other vegetative residue resulting from activities on forest land.

3 ~~((7))~~ (8) "Forest fire service" includes all wardens, rangers,
4 and other persons employed especially for preventing or fighting forest
5 fires.

6 ~~((8))~~ (9) "Forest land" means any unimproved lands which have
7 enough trees, standing or down, or flammable material, to constitute in
8 the judgment of the department, a fire menace to life or property.
9 Sagebrush and grass areas east of the summit of the Cascade mountains
10 may be considered forest lands when such areas are adjacent to or
11 intermingled with areas supporting tree growth. Forest land, for
12 protection purposes, does not include structures.

13 ~~((9))~~ (10) "Forest landowner," "owner of forest land,"
14 "landowner," or "owner" means the owner or the person in possession of
15 any public or private forest land.

16 ~~((10))~~ (11) "Forest material" means forest slash, chips, timber,
17 standing or down, or other vegetation.

18 ~~((11))~~ (12) "Landowner operation" means every activity, and
19 supporting activities, of a forest landowner and the landowner's
20 agents, employees, or independent contractors or permittees in the
21 management and use of forest land subject to the forest protection
22 assessment under RCW 76.04.610 for the primary benefit of the owner.
23 The term includes, but is not limited to, the growing and harvesting of
24 forest products, the development of transportation systems, the
25 utilization of minerals or other natural resources, and the clearing of
26 land. The term does not include recreational and/or residential
27 activities not associated with these enumerated activities.

28 ~~((12))~~ (13) "Participating landowner" means an owner of forest
29 land whose land is subject to the forest protection assessment under
30 RCW 76.04.610.

31 ~~((13))~~ (14) "Slash" means organic forest debris such as tree
32 tops, limbs, brush, and other dead flammable material remaining on
33 forest land as a result of a landowner operation.

34 ~~((14))~~ (15) "Slash burning" means the planned and controlled
35 burning of forest debris on forest lands by broadcast burning,
36 underburning, pile burning, or other means, for the purposes of
37 silviculture, hazard abatement, or reduction and prevention or
38 elimination of a fire hazard.

1 ((+15+)) (16) "Suppression" means all activities involved in the
2 containment and control of forest fires, including the patrolling
3 thereof until such fires are extinguished or considered by the
4 department to pose no further threat to life or property.

5 ((+16+)) (17) "Unimproved lands" means those lands that will
6 support grass, brush and tree growth, or other flammable material when
7 such lands are not cleared or cultivated and, in the opinion of the
8 department, are a fire menace to life and property.

9 **Sec. 12.** RCW 76.04.660 and 1986 c 100 s 39 are each amended to
10 read as follows:

11 (1) The owner of land on which there is an additional fire hazard
12 ~~((and the person responsible for the existence of an additional fire~~
13 ~~hazard)), when the hazard is the result of a landowner operation or the
14 land is within an area covered by a forest health hazard warning issued
15 under section 7 of this act, shall take reasonable measures to reduce
16 the danger of fire spreading from the area and may abate the hazard by
17 burning or other satisfactory means.~~

18 (2) The department shall adopt rules defining areas of extreme fire
19 hazard that the owner and person responsible shall abate. The areas
20 shall include but are not limited to high risk areas such as where life
21 or buildings may be endangered, areas adjacent to public highways, and
22 areas of frequent public use.

23 (3) The department may adopt rules, after consultation with the
24 forest fire advisory board, defining other conditions of extreme fire
25 hazard with a high potential for fire spreading to lands in other
26 ownerships. The department may prescribe additional measures that
27 shall be taken by the owner and person responsible to isolate or reduce
28 the extreme fire hazard.

29 (4) The owner or person responsible for the existence of the
30 extreme fire hazard is required to abate, isolate, or reduce the
31 hazard. The duty to abate, isolate, or reduce, and liability under
32 this chapter, arise upon creation of the extreme fire hazard.
33 Liability shall include but not be limited to all fire suppression
34 expenses incurred by the department, regardless of fire cause.

35 (5) If the owner or person responsible for the existence of the
36 extreme fire hazard or forest debris subject to RCW 76.04.650 refuses,
37 neglects, or unsuccessfully attempts to abate, isolate, or reduce the

1 same, the department may summarily abate, isolate, or reduce the hazard
2 as required by this chapter and recover twice the actual cost thereof
3 from the owner or person responsible. Landowner contingency forest
4 fire suppression account moneys may be used by the department, when
5 available, for this purpose. Moneys recovered by the department
6 pursuant to this section shall be returned to the landowner contingency
7 forest fire suppression account.

8 (6) Such costs shall include all salaries and expenses of people
9 and equipment incurred therein, including those of the department. All
10 such costs shall also be a lien upon the land enforceable in the same
11 manner with the same effect as a mechanic's lien.

12 (7) The summary action may be taken only after ten days' notice in
13 writing has been given to the owner or reputed owner of the land on
14 which the extreme fire hazard or forest debris subject to RCW 76.04.650
15 exists. The notice shall include a suggested method of abatement and
16 estimated cost thereof. The notice shall be by personal service or by
17 registered or certified mail addressed to the owner or reputed owner at
18 the owner's last known place of residence.

19 (8) A landowner or manager may make a written request to the
20 department to inspect their property and provide a written notice that
21 they have complied with a forest health hazard warning, or otherwise
22 adequately abated, isolated, or reduced an additional or extreme fire
23 hazard. An additional or extreme fire hazard shall be considered to
24 continue to exist unless and until the department, in its sole
25 discretion, issues such notice.

26 NEW SECTION. Sec. 13. The following acts or parts of acts are
27 each repealed:

28 (1) RCW 76.06.050 (Infestation control district--Creation--Notice
29 to owners) and 1988 c 128 s 17, 1961 c 72 s 1, & 1951 c 233 s 5;

30 (2) RCW 76.06.060 (Department to control pests and diseases if
31 owner fails) and 1988 c 128 s 18 & 1951 c 233 s 6;

32 (3) RCW 76.06.070 (Lien for costs of control--Collection) and 1988
33 c 128 s 19 & 1951 c 233 s 7;

34 (4) RCW 76.06.080 (Owner complying with notice is exempt) and 1988
35 c 128 s 20 & 1951 c 233 s 11;

36 (5) RCW 76.06.090 (Dissolution of infestation control district) and
37 1988 c 128 s 21 & 1951 c 233 s 12; and

1 (6) RCW 76.06.110 (Deposit of moneys in general fund--Allotment as
2 unanticipated receipts) and 1979 ex.s. c 67 s 12 & 1951 c 233 s 9.

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